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In re Application of
DYKSTERHOUSE, Joel A.
U.S. Application No.: 09/700,950
PCT No.: PCT/US98/14122
Int. Filing Date: 08 July 1998
Priority Date: 08 July 1997
Attorney Docket No.: 405200002USD
For: METHOD OF PREPREGGING WITH
RESIN AND NOVEL PREPEGS
PRODUCED BY SUCH METHOD

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 CFR § 1.182" filed 10 April 2001 requesting that the United States Patent and Trademark Office (PTO) determine that a declaration was submitted in the above-captioned application on 20 November 2000. This is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 20 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 along with various other documents. Applicant claims that an executed declaration was included among these other documents. However, the declaration was not located in the above-captioned file.

On 21 February 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided. A one-month time period for response was set.

On 10 April 2001, applicant filed the instant petition along with, *inter alia*, a copy of the "Express Mailing Certificate" and postcard receipt for documents submitted 20 November 2000 and a copy of the declaration purportedly filed 20 November 2000.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the PTO. Applicant must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The

identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

In this case, applicant has provided a copy of the date-stamped filing receipt for the documents submitted 20 November 2000. The receipt clearly identifies the application by the name of the applicant, attorney docket number, U.S. application number, filing date, and title. The filing receipt records that an "original executed Declaration and Power of Attorney" was received in the PTO. The postcard receipt is stamped "527 Rec'd PCT/PTO 20 NOV 2000" across its face. There are no annotations on the postcard receipt. This description is sufficient to prove that an executed declaration was filed on 20 November 2000.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the PTO on 18 April 2000.

A review of the declaration originally submitted 20 November 2000 reveals that it complies with the requirements of 37 CFR 1.497.

DECISION

For the reasons above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/905 mailed 21 February 2001 is hereby **VACATED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 08 July 1998, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **20 November 2000**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.


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